



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/781,604 | 02/12/2001 | Jesse Sharp | 00664187 | 3809 |

26565 7590 07/05/2005

MAYER, BROWN, ROWE & MAW LLP
P.O. BOX 2828
CHICAGO, IL 60690-2828

| |
|----------|
| EXAMINER |
|----------|

POINVIL, FRANTZY

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3628

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|------------------------------|--|
| Office Action Summary | Application No. 09/781,604 | Applicant(s) SHARP ET AL. | |
| | Examiner Frantzy Poinvil | Art Unit 3628 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-246 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 140, 215 and 218-226 is/are allowed.
- 6) ☒ Claim(s) 1-111, 114-129, 132-139, 141-214, 216, 217, 227-231, 234-236 and 239-246 is/are rejected.
- 7) ☒ Claim(s) 112, 113, 130, 131, 232, 233, 237 and 238 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/12/01 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

A

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-111, 114-129, 132-139, 141-214, 216- 217, 227-231, 234-236 and 239-246 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pool et al. (US Patent No. 6,845,364) in view of Wojcik et al. (US Patent No. 5,758,329).

As per claims 1-111, 114-129, 132-139, 141-214, 216- 217, 227-231, 234-236 and 239-246, Pool et al disclose a system and method for conducting electronic commerce between buyers and sellers using an interactive computerized catalog system. The system and method comprise an account management system that assigns roles to users, a buy/sell system for the creation of a tender agreement between at least two users, an order fulfillment system wherein the order fulfillment system enables fulfillment of the tender agreement, an action defining system that defines possible user actions, possible user information and consequences of the possible user actions and a user interface portion that permits communication over the network among the marketplace and the users. Applicant is directed to column 3, line 60 to column 12, line 40 of Pool et al.

Pool et al do not explicitly teach a freight marketplace. Pool et al further teach a user selecting various transportation packages and from various carriers. See column 9, lines 20-40.

Pool et al further state that “between the vendor and the customer each discrete leg of the transport route is determined (Step 132) as well as the costs accompanying each of those discrete legs of the journey”.

Wojcik et al disclose a system and method for managing customer orders. Wojcik et al further teach a freight transportation marketplace accessible to users over a network. See the abstract. The system and method comprise an account management system defining buyer accounts and seller accounts for at least some of the users. Wojcik et al further teach an account maintenance system, a rate management system, a track and trace system that archives track and trace events, a catalog sales system, a matching system, a pricing system that creates a price for the match selected, a tender agreement creation system and an order fulfillment system. See column 4, line 36 to column 20, line 51 of Wojcik et al. Wojcik et al. further discuss user's profiles, an account maintenance system, several fees to be charged, a reporting system, seller's rules tariffs and marketplace rules.

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the system of Pool et al with Wojcik et al. in order to allow a buyer/purchaser to track a purchased item and negotiate terms of a purchase agreement.

The combination of Wojcik et al and Pool et al does not explicitly teach an exception management system. However, the combined teachings allow changes to be made which reads as an exception management system.

2. The prior art failed to teach or suggest features found in claims 112-113, 130-131, 232-233 and 237-238.

Claims 112, 130, 232 and 237-238 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 140, 215 and 218-226 are allowable over the art of record.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Frantzy Poinvil
Primary Examiner
Art Unit 3628**